

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 06-4017-01-CR-C-NKL
)	
JEFFREY M. VERNACE,)	
)	
Defendant.)	
)	
)	

ORDER

On June 30, 2006, United States Magistrate Judge William A. Knox recommended that the Court enter an Order denying Jeffrey Vernace's Motion to Dismiss Indictment Due to Legal Impossibility [Doc. # 22]. *See* Report and Recommendation [Doc. # 31]. Vernace has not filed any objections to the Report and Recommendation. Having conducted an independent review of the record, the Court concludes that Judge Knox's Report and Recommendation is correct and should be adopted.

Vernace was indicted on March 2, 2006, and charged in the indictment with violating 18 U.S.C. 2422(b), which reads as follows:

Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or

attempts to do so, shall be fined under this title, and imprisoned not less than 5 years and not more than 30 years.

In his Motion to Dismiss Indictment Due to Legal Impossibility, Vernace argues that 18 U.S.C. is inapplicable because the 13-year old girl he believed he was enticing was actually an adult law enforcement officer. In a case virtually identical to the instant case, the Eighth Circuit Court of Appeals rejected a defendant's legal impossibility argument and held that "an actual minor victim is not required for an attempt conviction under § 2422(b)." *United States v. Helder*, 452 F.3d 751, 756 (8th Cir. 2006). Thus, Vernace's legal impossibility argument fails.

Based upon the evidence presented, the Court finds no basis for granting Vernace's Motion to Dismiss Indictment Due to Legal Impossibility [Doc. # 22].

Accordingly, it is hereby

ORDERED that Judge Knox's Report and Recommendation of June 30, 2006 [Doc. # 31], is adopted.

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: October 2, 2006
Jefferson City, Missouri